



THE STATE EDUCATION DEPARTMENT / THE UNIVERSITY OF THE STATE OF NEW YORK / ALBANY, N.Y. 12234

OFFICE OF PROFESSIONAL DISCIPLINE  
ONE PARK AVENUE, NEW YORK, NEW YORK 10016-5802

January 31, 1990

Lawrence M. Scheininger, Physician  
15 Oyster Bay Drive  
Rumson, New Jersey 07760

Re: License No. 138375

Dear Dr. Scheininger:

Enclosed please find Commissioner's Order No. 10233. This Order and any penalty contained therein goes into effect five (5) days after the date of this letter.

If the penalty imposed by the Order is a surrender, revocation or suspension of your license, you must deliver your license and registration to this Department within ten (10) days after the date of this letter. In such a case your penalty goes into effect five (5) days after the date of this letter even if you fail to meet the time requirement of delivering your license and registration to this Department.

Very truly yours,

DANIEL J. KELLEHER  
Director of Investigations  
By:

MOIRA A. DORAN  
Supervisor

DJK/MAH/er  
Enclosures

CERTIFIED MAIL- RRR

cc:

RECEIVED  
FEB 5 1990  
OFFICE OF PROFESSIONAL  
DISCIPLINE

**REPORT OF THE  
REGENTS REVIEW COMMITTEE**

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**LAWRENCE M. SCHEININGER**

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**CALENDAR NO. 10233**



# The University of the State of New York

IN THE MATTER

of the

Disciplinary Proceeding

against

**LAWRENCE M. SCHEININGER**

**No. 10233**

who is currently licensed to practice  
as a physician in the State of New York.

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## REPORT OF THE REGENTS REVIEW COMMITTEE

LAWRENCE M. SCHEININGER, hereinafter referred to as respondent, was given due notice of this proceeding and informed that he could appear and be represented by an attorney.

On October 17, 1989, the scheduled date of our hearing, respondent did not appear before us in person and no attorney appeared before us to represent respondent. E. Marta Sachey, Esq., represented the Department of Health.

Petitioner's recommendation as to the penalty to be imposed, should respondent be found guilty, was that respondent's license to practice as a physician in the State of New York be revoked.

We have reviewed the record in this matter; and our unanimous findings of fact, determination as to guilt, and recommendation as to the penalty to be imposed follow:

FINDINGS OF FACT

1. Respondent was licensed to practice as a physician in this State by the New York State Education Department.
2. On March 9, 1988 the New Jersey State Board of Medical Examiners issued a final order in which it is recited that "Dr. Scheininger chooses to neither admit nor deny the factual and legal allegations of the violations charged, but in consideration of the Attorney General's agreement to the settlement of no contest to the following allegations: in Count 7 as to N.J.S.A. 45:1-21(c) (gross negligence) and 45:9-21(k). In combined Counts 8 and 10 as to N.J.S.A. 45:1-21(d) (repeated negligence) and N.J.A.C. 13:35-6.5. In Count 14 as to N.J.S.A. 45:9-22 and N.J.A.C. 13:35-6.10(h)." The New Jersey State Board of Medical Examiners suspended respondent's license to practice medicine and surgery in the State of New Jersey for one year with the last seven months of such suspension stayed so as to be a period of probation. The New Jersey order was filed on March 11, 1988.
3. Respondent is guilty of professional misconduct by reason of having disciplinary action taken after a disciplinary action was instituted by a duly authorized professional

**LAWRENCE M. SCHEININGER (10233)**

disciplinary agency of another state, as set forth in the statement of charges and the record herein.

4. The conduct committed by respondent in New Jersey, pursuant to the settlement of no contest in the New Jersey final order herein, would, if committed in New York State, constitute professional misconduct under New York Education Law §6509(2) -- gross negligence and negligence on more than one occasion.

**DETERMINATION AS TO GUILT**

The charge contained in the statement of charges, a copy of which is annexed hereto, made a part hereof, and marked as Exhibit "A", has been proven, to the extent indicated in this report, by a preponderance of the evidence and respondent is guilty thereof.

A charge under Education Law §6509(5)(d) is not proven merely by showing that respondent was disciplined on a particular ground by an order issued by the New Jersey agency herein. Education Law §6509(5)(d) requires that conduct exist and that such conduct, if committed in New York State, would constitute professional misconduct under New York State Law. The existence of conduct cannot be established under Education Law §6509(5)(d) in a direct referral proceeding unless the sister state action incorporates some adjudicatory action such as a hearing on the merits with a finding, or a clear admission by respondent, or a plea of no contest by respondent. Absent some such adjudicatory action it

**LAWRENCE M. SCHEININGER (10233)**

cannot logically be said that conduct exists as there would be no proof that any conduct ever took place.

In the present case, the order of the New Jersey State Board of Medical Examiners herein contains language in which respondent "chooses to neither admit nor deny the factual and legal allegations of the violations charged, but in consideration of the Attorney General's agreement to the settlement and termination of this litigation as to him, Dr. Scheininger hereby enters a settlement of no contest" to certain allegations. While we would not accept a neither admit nor deny statement alone, it is our unanimous opinion that, in view of the word "but" used subsequent to said neither admit nor deny statement and prior to the settlement of no contest statement, the above quoted language constitutes a no contest plea for purposes of proving a case under New York Education Law §6509(5)(d). Accordingly, we sustain the specification charged.

**RECOMMENDATION AS TO THE  
PENALTY TO BE IMPOSED**

Respondent's license to practice as a physician in the State of New York be revoked upon the charge of which respondent has been found guilty. Respondent may, pursuant to Rule 24.7(b) of the Rules of the Board of Regents, apply for restoration of said license after one year has elapsed from the effective date of the service of the order of the Commissioner of Education to be issued herein; but said application shall not be granted automatically.

LAWRENCE M. SCHEININGER (10233)

Respectfully submitted,

ADELAIDE L. SANFORD

SIMON J. LIEBOWITZ

JOHN T. MCKENNAN

  
Chairperson

Dated: November 16, 1989

STATE OF NEW YORK : DEPARTMENT OF HEALTH  
STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT

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IN THE MATTER : STATEMENT  
OF : OF  
LAWRENCE M. SCHEININGER, M.D. : CHARGES

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The State Board for Professional Medical Conduct, upon information and belief, charges and alleges as follows:

1. LAWRENCE M. SCHEININGER, M.D., the Respondent, was authorized to practice medicine in New York State on June 22, 1979 by the issuance of license number 138375 by the New York State Education Department.
2. The Respondent is not currently registered with the New York State Education Department to practice medicine.
3. The Respondent is charged with professional misconduct within the meaning of N.Y. Educ. Law §6509 (McKinney 1985 and Supp. 1989) as set forth in the attached Specification.

## SPECIFICATION

4. Respondent is charged with professional misconduct within the meaning of N.Y. Educ. Law §6509(5)(d) (McKinney Supp. 1989) by reason of his having his license to practice medicine revoked, suspended, or having other disciplinary action taken, or having voluntarily or otherwise surrendered his license after a disciplinary action was instituted by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the revocation, suspension, or other disciplinary action involving the license or the surrender of the license would, if committed in New York State, constitute professional misconduct under the laws of New York State, in that:

The New Jersey State Board of Medical Examiners, by Final Order filed March 11, 1988, suspended Respondent's license to practice medicine and surgery for one year, the first five months of which shall be an active suspension and the remainder of which shall be stayed and be a period of probation. The Board also imposed certain requirements upon Respondent, including inter alia, that Respondent complete continuing medical education in anesthesia, that upon resumption of active practice Respondent perform or assure the performance of appropriate pre-surgical and pre-anesthetic risk assessments of his patients, and that

Respondent prepare operative reports for his patients which shall not be completed or signed by him in advance of completion of the surgical procedure. The Board also assessed investigative costs and monetary penalties against Respondent totalling \$5,102.00.

The conduct underlying the aforesaid disciplinary action, as set forth in the Complaint and discussed in the Board's Final Order, consisted of, inter alia, the following:

- a. Performing a surgical termination of pregnancy without assuring that the patient had received proper pre-operative examination and preparation for surgery and without assuring that the patient's status was monitored during and after the surgery to assess response to and emergence from anesthesia. Such conduct constitutes gross negligence in violation of New Jersey Statutes §45:1-21(c).
- b. Permitting, condoning or ratifying the use of operative reports and nursing notes which were essentially pre-printed and contained conclusions and, on at least one occasion, signing a pre-printed operative report which included a medical conclusion that the "Patient was removed to primary recovery room awake and in good condition, tolerating the procedure well" before the patient was discharged from the operating room and when, in fact, the conclusion was erroneous, as the patient was apneic and after resuscitation did not recover consciousness. Such conduct constitutes repeated negligence in violation of New Jersey Statutes §45:1-21(d) and N.J.A.C. § 13:35-6.5 [recordkeeping].

The conduct, detailed in subparagraph 4(a), above, if committed in New York State, would constitute professional misconduct under N.Y. Educ. Law §6509(2) [practicing with gross negligence]. The conduct detailed in subparagraph 4(b), above, if committed in New York State, would constitute professional misconduct under N.Y. Educ. Law §6509(2) [practicing with negligence on more than one occasion] and also under N.Y. Educ. Law §6509(9) [committing unprofessional conduct as defined by the Board of Regents in its rules or by the Commissioner in regulations approved by the Board of Regents] in conjunction with 8 N.Y.C.R.R. §29.2(a)(3) (1987) [failing to maintain a record for each patient which accurately reflects the evaluation and treatment of the patient].

DATED: Albany, New York  
*September 11, 1989*

  
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PETER D. VAN BUREN  
Deputy Counsel  
Bureau of Professional Medical  
Conduct

**ORDER OF THE COMMISSIONER OF  
EDUCATION OF THE STATE OF NEW YORK**

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**LAWRENCE M. SCHEININGER**

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**CALENDAR NO. 10233**



# The University of the State of New York

IN THE MATTER

OF

**LAWRENCE M. SCHEININGER**  
(Physician)

**DUPLICATE  
ORIGINAL  
VOTE AND ORDER  
NO. 10233**

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Upon the report of the Regents Review Committee, a copy of which is made a part hereof, the record herein, under Calendar No. 10233, and in accordance with the provisions of Title VIII of the Education Law, it was

**VOTED (December 15, 1989):** That the record herein be accepted; that the findings of fact, determination as to guilt, and recommendation as to the penalty to be imposed rendered by the Regents Review Committee in the matter of LAWRENCE M. SCHEININGER, respondent, be accepted; that respondent is guilty of the charge to the extent indicated in the report of the Regents Review Committee by a preponderance of the evidence; that respondent's license and registration to practice as a physician in the State of New York be revoked upon the charge of which respondent has been found guilty; that respondent may, pursuant to Rule 24.7(b) of the Rules of the Board of Regents, apply for restoration of said license after one year has elapsed from the effective date of the service of the order of the Commissioner of Education to be issued herein, but said application shall not be granted automatically; and that the Commissioner of Education be empowered to execute, for and on behalf of the Board of Regents, all orders necessary to carry out the terms of this vote;

**and it is**

LAWRENCE M. SCHEININGER (10233)

ORDERED: That, pursuant to the above vote of the Board of Regents, said vote and the provisions thereof are hereby adopted and **SO ORDERED**, and it is further

ORDERED that this order shall take effect as of the date of the personal service of this order upon the respondent or five days after mailing by certified mail.

IN WITNESS WHEREOF, I, Thomas Sobol, Commissioner of Education of the State of New York, for and on behalf of the State Education Department and the Board of Regents, do hereunto set my hand and affix the seal of the State Education Department, at the City of Albany, this 10<sup>th</sup> day of

January, 1990.

Thomas Sobol

Commissioner of Education